

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION
357, AFL-CIO**

Case No. 28-CC-115255

and

**DESERT SUN ENTERPRISES LIMITED
d/b/a CONVENTION TECHNICAL
SERVICES**

**MOTION FOR LEAVE TO FILE *AMICUS* BRIEF ON BEHALF OF
COUNCIL ON LABOR LAW EQUALITY AND
ASSOCIATED GENERAL CONTRACTORS OF AMERICA**

Come now the Council on Labor Law Equality (COLLE) and Associated General Contractors of America (AGC), by undersigned counsel, and seek leave to file as *Amici Curiae* an Amicus Brief in the above-captioned matter. In support, COLLE and AGC state as follows:

1. COLLE is a trade association founded over 30 years ago for the purpose of monitoring and commenting on developments in the interpretation of the National Labor Relations Act (NLRA). Through the filing of amicus briefs and other forms of participation, COLLE provides a specialized and continuing business community effort to maintain a balanced approach in the formulation of national labor policy on issues that affect a broad cross-section of American industry. COLLE represents employers in virtually every business sector, all of whom are subject to the NLRA.

2. AGC is a nationwide trade association of construction contractors. AGC has a nationwide membership of over 32,000 firms and a network of 95 chapters. AGC members engage in the construction of public and private buildings and infrastructure throughout the country.

3. On July 28, 2014 Administrative Law Judge Gerald A. Wacknov issued his decision (herein the “ALJD”) in the above-styled matter (Exhibit A, attached).

4. Within the July 28, 2014 ALJD, Judge Wacknov addressed issues of significant impact to all employers subject to the jurisdiction of the National Labor Relations Act, particularly construction industry employers such as the AGC’s members (who commonly work on a jobsite where multiple employers are performing work), as well as every other employer who operates on a common site with another employer.

5. The central issue in the underlying case was whether the Respondent violated Sections 8(b)(4)(i) and (ii)(B) of the NLRA by advising a secondary employer that the Respondent was seeking strike sanctions against a primary employer performing work on a common site without further advising the secondary employer that any picket line established by Respondent at the common site would comply with the standards set forth in *Sailors Union of the Pacific (Moore Dry Dock)*, 92 NLRB 547 (1950).

6. This issue is of concern to every employer who performs work on the same site as any other employer. COLLE and AGC’s concern is that if the Board decides to depart from precedent and find that Respondent’s actions did not violate the Act, it will allow a union to send communications to secondary employers that impliedly threaten unlawful picketing. Upholding the current policy ensures that a union’s communications to secondary employers about picketing at a common situs are unlikely to be construed as threatening unlawful action.

7. COLLE’s position as a trade association representing employers across a wide variety of industries, as well as AGC’s position as a trade association representing construction industry employers who commonly share a jobsite with other employers, will allow them to

provide a perspective that is vital in assessing whether the current Board standard should be maintained.

8. The *Amicus Brief* being prepared for filing by COLLE and AGC will be narrowly crafted to allow for the Board's expeditious consideration of the issues raised. Consideration of COLLE and AGC's *Amicus Brief* will not hinder the record nor delay the Board's consideration of the significant issues presented.

WHEREFORE, COLLE and AGC respectfully request that the Board grant them leave to file an Amicus Brief by October 24, 2014.

Respectfully submitted,

/s/ John T. Merrell

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CERTIFICATE OF SERVICE

I hereby certify that, on this 26th day of September, 2014, I served a copy of the foregoing Amicus Curiae Brief on behalf of Council on Labor Law Equality (COLLE) and Associated General Contractors of America (AGC), upon the following:

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